

रजिस्टर्ड नं० पी०/एस० एस० 14.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 16 सितम्बर, 1978/25 भाद्रपद, 1900

हिमाचल प्रदेश सरकार

विधान सभा सचिवालय

अधिसूचनाएं

शिमला-171004, 8 सितम्बर, 1978

संख्या 1-40/78-वि० स०.—हिमाचल प्रदेश विधान सभा प्रक्रिय एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, "ही हिमाचल प्रदेश ट्रेक्टर कलटीवेशन (रिकवरी आफ चाजिज़) (अमैडमेंट) बिल, 1978 (बिल नं० 17 आफ

1978)" जो हिमाचल प्रदेश विधान सभा में 7 सितम्बर, 1978 को पुरःस्थापित किया गया है सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिये प्रेषित किया जाता है ।

Bill No. of 17 1978.

**THE HIMACHAL PRADESH TRACTOR CULTIVATION
(RECOVERY OF CHARGES) (AMENDMENT) BILL, 1978**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Himachal Pradesh Tractor Cultivation (Recovery of Charges) Act, 1973 (Act No. 16 of 1973).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Tractor Cultivation (Recovery of Charges) (Amendment) Act, 1978.

Short title
and comm-
encement.

(2) It shall come into force at once.

2. For existing clause (b) of section 2 of the Himachal Pradesh Tractor Cultivation (Recovery of Charges) Act, 1973, the following clause (b) shall be substituted, namely:—

Amendment
of section 2.

“(b) “Director” means the Director of Agriculture, Himachal Pradesh and includes any other officer so empowered by the State Government in this behalf;”.

STATEMENT OF OBJECTS AND REASONS

Clause (b) of section 2 of the Himachal Pradesh Tractor Cultivation (Recovery of Charges) Act, 1973, prescribes the Director of Agriculture as the sole authority for entertaining/rejecting an application for having any agricultural operations performed by a tractor on his land or any part thereof. The procedure being followed at present has been found to be cumbersome and dilatory as all the applications by the interested parties/cultivators are being forwarded by the respective field officers of the Department to the Director of Agriculture for sanction, being the sole sanctioning authority in terms of the above Act for tractor hiring.

With a view to ensure quick availability of the tractors to the cultivators it is considered that the Deputy Directors of various districts and the Project Officers of the Agriculture Department in the districts covered by the Indo-German Agriculture Development Projects should also be authorised to entertain/sanction applications (in their respective jurisdiction) for the hiring of tractors by the cultivators.

The Bill seeks to achieve the aforesaid object.

The SIMLA; 1978.

BACHITTER SINGH,
Minister-in-charge.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

शिमला-171004, 8 सितम्बर, 1978

संख्या 1-34/78-वि० सं०.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दी हिमाचल प्रदेश पंचायती राज (अमैडमैट) बिल, 1978 (बिल नं० 19 आफ 1978) जो हिमाचल प्रदेश विधान सभा में 7 सितम्बर, 1978 को पुरःस्थापित किया गया है सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिये प्रेषित किया जाता है।

Bill No. 19 of 1978

**THE HIMACHAL PRADESH PANCHAYATI RAJ
(AMENDMENT) BILL, 1978**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**A
BILL**

*further to amend the Himachal Pradesh Panchayati Raj Act, 1968
(Act No. 19 of 1970)*

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Panchayati Raj (Amendment) Act, 1978.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. For existing clause(s) of sub-section (1) of section 3 of the Himachal Pradesh Panchayati Raj Act, 1968 (hereinafter called "the principal Act"), the following clause(s) shall be substituted, namely:—

Amendment
of section 3.

"(s) "Panch" means a member of Gram Panchayat elected, appointed or co-opted under this Act and includes a Pradhan or Up-Pradhan;"

3. For existing sub-section (3) of section 5 of the principal Act, the following sub-section (3) shall be substituted, namely:—

Amendment
of section 5.

"(3) Every person who has attained the age of eighteen years on the qualifying date and ordinarily resides in a village which forms a part of the Sabha area for a period of one year immediately before the qualifying date and whose name is registered in the register of members to be prepared and maintained by the Gram Panchayat in the prescribed manner, shall be a member of that Gram Sabha:

Provided that no person shall be entitled to be registered in the register of members in more than one Gram Sabha:

Provided further that a person who,—

- (a) is not a citizen of India; or
- (b) is of unsound mind and stands so declared by a competent court; or
- (c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections;

shall not be entitled to be registered as a member of the Gram Sabha. The name of any person who becomes so disqualified after registration shall forthwith be struck off from the register of members in which it is included.

Explanation I.—The expression “qualifying date” in relation to the preparation or the revision of every register of members under the Act, or the rules framed thereunder, means the 31st day of December of the preceding year of the year in which the register of members is so prepared or revised.

Explanation II.—(a) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(b) A person shall not be deemed to be ordinarily resident in a Sabha area on the ground only that he owns, or is in possession of, a dwelling house therein.”

Amendment
of section 9.

4. For the sign full stop “.” occurring at the end of third proviso to sub-section (1) of section 9 of the principal Act, the sign colon “:” shall be substituted and thereafter the following proviso shall be added, namely,—

“Provided further that in case there is,—

(a) no scheduled caste population; or

(b) no eligible person belonging to scheduled caste, to be chosen or co-opted as a Panch of the Gram Panchayat;

neither any seat shall be reserved for scheduled caste nor any person belonging to scheduled caste shall be co-opted as a Panch.”

Amendment
of section 74.

5. In sub-section (2) of section 74 of the principal Act,—

(a) the sign “.” shall be substituted for the sign “:” occurring after the words “in the same manner”; and

(b) existing proviso shall be omitted.

Repeal and
savings.

6. The Himachal Pradesh Panchayati Raj (Amendment) Ordinance, 1978 is hereby repealed:

Provided that anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 6th June, 1978.

STATEMENT OF OBJECTS AND REASONS

According to the existing provision contained in sub-section (3) of section 5 of the Himachal Pradesh Panchayati Raj Act, 1968, every person who has attained the age of eighteen years and ordinarily resides in a village which forms part of the Sabha area shall be a member of the Gram Sabha of that Sabha area. According to this provision, people who happen to reside in the Gram Sabha area casually are entitled to become the members of that Gram Sabha. In view of this considerable difficulty has been experienced to finalise the voter's lists for the elections to Gram Panchayats. As such it has been considered necessary to amend the said Act to provide that only those persons who ordinarily reside in a village which forms part of the Sabha area for a period of one year immediately before the qualifying date and whose name is registered in the register of members to be prepared and maintained by the Gram Panchayat shall be the members of that Gram Sabha. It has also been considered necessary to prescribe some qualifications for becoming a member of the Gram Sabha.

Secondly sub-section (1) of section 9 of the Act makes a provision for the reservation of one seat in every Gram Panchayat for scheduled castes. In a Gram Panchayat, where the number of total members is eleven, one member belonging to scheduled castes shall have to be co-opted by the Gram Panchayat if only one scheduled caste member is elected. Now it has been noticed that in the Pradesh there are certain Gram Sabha areas, where there is either no scheduled caste population or there is no eligible person belonging to scheduled castes who could be chosen or co-opted as a Panch, as envisaged under section 9 (1) of the Act and in such cases neither any seat can be reserved for scheduled castes nor co-option of the scheduled caste member is possible. As such the amendments in sub-section (1) of section 9 have become necessary.

Since the matter was of urgent public importance and the Legislative Assembly was not in session and the circumstances existed which rendered it necessary for the Governor of Himachal Pradesh to take immediate action under clause (1) of Article 213 of the Constitution of India. To meet this emergent situation, the Himachal Pradesh Panchayati Raj (Amendment) Ordinance, 1978 (Ordinance No. 2 of 1978) was promulgated on 6th June, 1978. Now this Ordinance is required to be replaced by a regular enactment.

Clause(s) of sub-section (1) of section 3 of the Act, defines "Panch" as a member of Gram Panchayat elected or appointed under this Act and includes a Pradhan or Up-Pradhan. With a view to include co-opted Panch in the said definition of "Panch", clause(s) of sub-section (1) of section 3 is also required to be amended.

Further more the provisions of sections 73 and 74 of the Act are contradictory. Proviso to sub-section (2) of section 74 of the Act provides that if a Pradhan of a Gram Panchayat is elected as Chairman of the Panchayat Samiti, he shall cease to be the Pradhan of the Gram Panchayat. According to section 73(1)(c) of the Act, the Chairman, Vice-Chairman or a member of a Panchayat Samiti shall cease to be as such if he ceases to be a Panch. The term "Panch" includes Pradhan or Up-Pradhan as defined in clause(s) of sub-section (1) of section 3 of the Act. To remove this anomaly section 74 is also required to be amended.

The Bill seeks to replace the aforesaid Ordinance with modifications.

The SIMLA : 1978.

ROOP SINGH,
Minister-in-charge.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Government to prescribe the manner under which the Gram Panchayats will prepare and maintain the register of members of Gram Sabhas. This delegation is essential and normal in character.

STATEMENT EXPLAINING THE CIRCUMSTANCES WHICH NECESSITATED MODIFICATIONS IN THE ORDINANCE NO. 2 OF 1978

The Ordinance No. 2 of 1978 as promulgated on 6th June, 1978 contemplated the amendments in section 5(3) and 9(1) of the Himachal Pradesh Panchayati Raj Act, 1968, to ensure the smooth conduct of elections to the Panchayati Raj institutions. Moreover, it is also considered necessary to amend sections 3(s) and 74 of the said Act to cover the co-opted Panches in the definition of "Panch" and to make a provision that if a Pradhan of a Gram Panchayat is elected as Chairman of the Panchayat Samiti, he may not cease to be the Pradhan of the Gram Panchayat. Hence the Bill which is to replace the Ordinance No. 2 of 1978 has to be modified.

शिमला-1710 04, 8 सितम्बर, 1978

संख्या 1-35/78-वि० स०.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, "दी हिमाचल प्रदेश रिक्रूजीशनींग और एक्ज्यूजीशन ऑफ इम्पुब्लिक प्रोपर्टी (अमेन्डमेंट) बिल, 1978 (बिल नं० 18 आफ 1978) जो हिमाचल प्रदेश विधान सभा में 7 सितम्बर, 1978 को पुरःस्थापित किया गया है सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिये प्रेषित किया जाता है ।

Bill No. 18 of 1978.

**THE HIMACHAL PRADESH REQUISITIONING AND ACQUISITION
OF IMMOVABLE PROPERTY (AMENDMENT) BILL, 1978**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**A
BILL**

to amend the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972 (Act No. 20 of 1973).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1978.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. In sub-section (3) of section 1 of the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972 for the existing words "five years", the words "ten years" shall be substituted.

Amendment
of section 1.

3. The Himachal Pradesh Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1978 is hereby repealed:

Repeal and
savings.

Provided that anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 28th July, 1978.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972 (Act No. 20 of 1973) after having the assent of the President of India was published in the Rajpatra, Himachal Pradesh on the 28th July, 1973. By virtue of the provisions contained in section 3 of the Himachal Pradesh General Clauses Act, 1968 (Act No. 16 of 1969), as substituted by the Himachal Pradesh Act No. 18 of 1971, this Act has to be deemed to have come into operation on the day on which it was published in the Rajpatra, Himachal Pradesh, i.e. 28th July, 1973. The life of this Act, which was five years, was to expire on the 27th July, 1978.

The said Act was enacted with a view to providing proper office/residential accommodation in the District offices of the State. Shortage of accommodation still exists. As such it has been decided to extend the life of the said Act for a period of 5 years more, as occasion often arises when the requisitioning and acquisition of immovable property becomes inescapable in the public interest.

Since the matter was of urgent public importance and the Legislative Assembly was not in session and the circumstances existed which rendered it necessary for the Governor of Himachal Pradesh to take immediate action under clause (1) of Article 213 of the Constitution of India. To meet this emergent situation, the Himachal Pradesh Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1978 (Ordinance No. 3 of 1978) was promulgated on 28th July, 1978. Now this Ordinance is required to be replaced by a regular enactment.

The Bill seeks to replace the said Ordinance without any modification.

The **SIMLA:**
, 1978.

KISHORI LAL,
Minister-in-charge.

FINANCIAL MEMORANDUM
Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

शिमला-171004, 8 सितम्बर, 1978

संख्या 1-36/78-वि० स०—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दो हिमाचल प्रदेश टेक्सेशन (आन सरटेन गुडज़ कैंरिड बाई रोड) (अमैन्डमेंट) बिल, 1978 (बिल नं० 21 आफ 1978) जो हिमाचल प्रदेश विधान सभा में 7 सितम्बर, 1978 को पुरः स्थापित किया गया है सर्वसाधारण की सूचनाय राजपत्र में मुद्रित करने के लिये प्रेषित किया जाता है ।

वेद प्रदाश,
सचिव ।

Bill No. 21 of 1978.

THE HIMACHAL PRADESH TAXATION (ON CERTAIN GOODS CARRIED BY ROAD) (AMENDMENT), BILL, 1978

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1976 (Act No. 34 of 1976).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Taxation (On Certain Goods Carried by Road) (Amendment) Act, 1978.

Short title and commencement.

(2) It shall come into force at once.

2. In the Schedule to the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1976 (34 of 1976),—

Amendment of Schedule.

(a) for the existing goods against serial No. 13, the following goods shall be substituted, namely:—

“13. **TIMBER—**

(a) **SAWN, HAKRIES, DIMDIMAS, ROUGH AXED (ALL SIZES):**

- | | |
|---|----------------|
| (i) Deodar, Walnut, Maple, Birdcherry, Betula species (Bhojpatter) Aesculus indica (Khanor) | .. Rs. 50 cum. |
| (ii) Kail, Sal | .. Rs. 40 cum. |
| (iii) Chil | .. Rs. 35 cum. |
| (iv) Fir spruce | .. Rs. 30 cum. |
| (v) Hornbeam (Khirkee), Ash | .. Rs. 75 cum. |

(b) **LOGS (ALL SIZES):**

- | | |
|--|----------------|
| (i) Deodar, Walnut, Maple, Birdcherry, Betula species (Bhojpattar), Aesculus indica (Khanor) | .. Rs. 35 cum. |
| (ii) Kail, Sal | .. Rs. 28 cum. |
| (iii) Chil | .. Rs. 25 cum. |
| (iv) Fir spruce | .. Rs. 20 cum. |
| (v) Hornbeam (Khirkee), Ash | .. Rs. 52 cum. |

(c) **BALLIES (ALL SIZES):**

- | | |
|-----------------|----------------|
| (i) Deodar | .. Rs. 25 cum. |
| (ii) Kail, Sal | .. Rs. 20 cum. |
| (iii) Chil | .. Rs. 18 cum. |
| (iv) Fir spruce | .. Rs. 15 cum. |

(d) KHAIR:

(i) Chipped heartwood or billets or log form	.. Rs. 10 per qtl.
(ii) Khairwood with bark in billets or log form	.. Rs. 5 per qtl.
(e) Fuelwood	.. Re. 0.75 per qtl.
(f) Chil pulpwood	.. Re. 1.00 per qtl.
(g) Any other coniferious or broad leave timber	.. Rs. 40 cum;" and

(b) after the goods at serial No. 13 so substituted, the following goods as serial No. 14 shall be added and existing serial No. 14 shall be renumbered as 15:—

“14. SEEDS:—Seeds of all forest species like deodar, Kail, Chil and broad leaved species .. Rs. 100
per qtl.”

STATEMENT OF OBJECTS AND REASONS

Under the existing Schedule to the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act 1976 (34 of 1976) certain kinds of timber such as dimdimas and rough axed has been slipped over which is creating confusion in the minds of the staff posted at the barrier. Further few of the species such as Walnut, Maple, Birdcherry, Betula species (Bhojpattar) Aesculus indica (Khanor), Sal spruce, Khirkee, Ash, Khair (chipped, heartwood or billets of heartwood or logs form) fuelwood, chil, pulpwood and other coniferous or broad leaved timber have also not been taxed resulting in disparity amongst the traders of the same trade.

In order to remove the above discrepancy/other inconsistencies in the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1976 and also to tax other timber and the seeds of all forest species like Deodar, Kail, Chil etc., is necessary to amend the said Act.

This Bill seeks to achieve the said objectives.

SIMEA:

JAGDEV CHAND,

Minister-in-charge.

The , 1978.

FINANCIAL MEMORANDUM

The provisions of the Bill when enacted will yield an additional annual income of Rupees one lakh approximately. As the agency for collection of this tax already exists, no extra expenditure will be incurred.

MEMORANDUM ON DELEGATED LEGISLATION

Nil

RECOMMENDATION OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Excise and Taxation Department, File No. EXN. F. 18 (1)/77]

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Taxation (On Certain Goods Carried by Road) (Amendment) Bill, 1978, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly of Himachal Pradesh.

**GENERAL ADMINISTRATION DEPARTMENT
(C SECTION)**

NOTIFICATION

Simla-171002, the 15th September, 1978

No. GAD (PA)-5(E)-2/77-CC.—The Governor, Himachal Pradesh is pleased to accord sanction to the extension of the period of submission of the final report by Shri J. C. Malhotra, Emergency Excesses Inquiry Authority, appointed *vide* Resolution of even number, dated 25th July, 1978 upto the 30th September, 1978.

2. The Governor, Himachal Pradesh, is further pleased to accord sanction to the extension of the period of submission of the final reports by Shri H. S. Dubey and Shri P. P. Srivastava, Emergency Excesses Inquiry Authorities, appointed *vide* Resolutions of even number, dated 28-8-1978 upto the 30th September, 1978.

L. HMINGLIANA TOCHHAWNG,
Chief Secretary.